

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

LETTERS PATENT APPEAL No 1180 of 1997
in
SPECIAL CIVIL APPLICATION No. 6092 of 1997
with
LETTERS PATENT APPEAL No. 1181 of 1997
in
SPECIAL CIVIL APPLICATION No. 6091 of 1997
with
LETTERS PATENT APPEAL No. 1182 of 1997
in
SPECIAL CIVIL APPLICATION No. 6093 of 1997

For Approval and Signature:

Hon'ble MR.JUSTICE C.K.THAKKER
and
MISS JUSTICE R.M. DOSHI

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?
1 to 5 : NO

BABULAL GOBARDAS PATEL

Versus

MANJULABEN K PRAJAPATI

Appearance:

MR TUSHAR MEHTA for Petitioner
MR YN OZA for Respondent No. 1
SERVED BY DS for Respondent No. 2, 3, 4

CORAM : MR.JUSTICE C.K.THAKKER and

Date of decision: 09/10/97

ORAL JUDGEMENT {Per : Thakkar, J.}

All these three appeals arise out of an interlocutory order passed by the learned Single Judge in Special Civil Application No. 6091, 6092 and 6093 all of 1997.

The learned Single Judge has admitted the petitions and an interlocutory order is passed. The operative part of the said Order reads as under :-

"Rule is therefore issued in each of these three petitions and ad-interim stay of the impugned orders in each of the three matters is granted staying their operation only to the extent that the petitioner are removed as municipal councillors until further orders, D.S permitted."

It was contended on behalf of the respondents that the order passed by the learned Single Judge regarding stay is merely ad-interim in nature. This Court, therefore, may not entertain Letters Patent Appeals against such orders. It is always open to an aggrieved party to approach the learned Single Judge for vacating and/or modifying that order. Mr. Mehta, on the other hand submitted that the matters are admitted and "Rule" is already issued. Ad-interim relief is granted after hearing the parties. He, therefore, submitted that Letters Patent Appeals may be admitted.

In the facts and circumstances of the case, in our opinion, it would not be appropriate to entertain the appeals at this stage. Looking to the order, it is clear that stay is "Ad-interim" in nature. It is, therefore, open to the appellants, as contended by the respondents, to approach the learned Single Judge by filing an appropriate application and to persuade the learned Single Judge to vacate and/or modify that order.

It was also submitted by the learned counsel for the appellants that Rule is not made returnable and the matters are such that they deserve immediate and expeditious disposal. He further submitted that in view of certain decisions of this Court, matters may require consideration either by a Division Bench or even by a larger Bench of this Court.

Learned counsel for appellants is at liberty to request the learned Single Judge either to fix the

matters for final hearing and/or to refer them to a Division Bench or to a larger Bench.

At this stage, in our opinion, nothing further can be done in the matter in view of the nature of order. Hence, without observing anything on merits all the three appeals are disposed of. Notices discharged with no order as to costs.

Prakash*